

VZCZCXRO1170
PP RUEHIK
DE RUEHAH #0137/01 0290857
ZNR UUUUU ZZH
P 290857Z JAN 10
FM AMEMBASSY ASHGABAT
TO RUEHC/SECSTATE WASHDC 4149
INFO RUCPDO/DEPT OF COMMERCE WASHDC PRIORITY
RUEATRS/DEPT OF TREASURY WASHDC PRIORITY
RUCNCLS/ALL SOUTH AND CENTRAL ASIA COLLECTIVE
RUCNCIS/CIS COLLECTIVE
RUCNMEM/EU MEMBER STATES COLLECTIVE
RUEHAK/AMEMBASSY ANKARA 6185
RUEHBJ/AMEMBASSY BEIJING 3868
RUEHKO/AMEMBASSY TOKYO 3727
RUEHIT/AMCONSUL ISTANBUL 4429
RUCNDT/USMISSION USUN NEW YORK 1453
RHMCSUU/CDR USCENCOM MACDILL AFB FL
RUEHVEN/USMISSION USOSCE 4352
RUEAIIA/CIA WASHDC
RHEFDIA/DIA WASHDC
RHEHNSC/NSC WASHDC
RUEKJCS/SECDEF WASHDC
RUEKJCS/JOINT STAFF WASHDC

UNCLAS SECTION 01 OF 02 ASHGABAT 000137

SENSITIVE

SIPDIS

STATE FOR SCA/CEN; EEB
ENERGY FOR EKIMOFF/BURPOE/COHEN
COMMERCE FOR DSTARKS/EHOUSE

E.O. 12958: N/A

TAGS: [KIPR](#) [ECON](#) [PGOV](#) [EINV](#) [TX](#)

SUBJECT: TURKMENISTAN: INITIATIVE BY IPR OWNERS KEY TO
ENFORCEMENT

ASHGABAT 00000137 001.2 OF 002

11. (U) Sensitive but unclassified. Not for public Internet.

12. (SBU) SUMMARY: Turkmenistan has been slow to pursue intellectual property rights (IPR) protection since its independence. Counterfeit goods like computer software, audio and video recordings, and clothing are freely available on the local market at prices significantly lower than those of licensed products. The situation with IPR in the industrial sector has improved over the last decade. Companies register patents, trademarks, and licensing agreements with the Turkmen Ministry of Economy and Development. Turkmenistan has adopted intellectual property rights legislation and created mechanisms to enforce it. Since the law envisages that IPR enforcement should be initiated by IPR owners, injured parties need to be proactive in seeking recourse for violations on the Turkmen market. END SUMMARY.

13. (SBU) According to local experts, industrial technologies and equipment that companies use in Turkmenistan are, for the most part, genuine and duly licensed. About ten years ago, the Turkmen Government started requiring foreign companies to register their licenses and/or patents at the Patent Department of the Ministry of Economy and Development. The Patent Department in turn verifies the registered licenses for legitimacy. The Turkmen Government is motivated to encourage foreign companies to observe this requirement because the government levies taxes on license payments made according to such licensing arrangements.

14. (SBU) Foreign companies also register their trademarks at the Patent Department to protect them from illegal use. According to a local lawyer, at least one large foreign company has sought to protect its trademark from unauthorized use through legal action in Turkmen courts. He refused to provide further details citing confidentiality.

¶5. (SBU) In contrast to license and trademark registration practices, little has been done to enforce IPR involving consumer goods. Counterfeit clothing products and accessories, made mostly in China and Turkey, dominate the local market for imported clothing. CDs and DVDs with counterfeit software, videos, movies, and music (both foreign and local) can be purchased or rented at any corner for a price that is slightly higher than the cost of a blank disc. Piracy of commercial TV satellite channels is also widespread in Turkmenistan.

¶6. (SBU) The following laws regulate protection of IPR in Turkmenistan: Law on Scientific Intellectual Property (1992), Law on Legal Protection of Algorithms, Software, Databases, and IC Devices (1994), Law on Inventions and Industrial Designs (2008), and Law on Trade and Service Marks and Places of Origin (2008). Turkmenistan's Civil Code regulates protection of copyrights.

¶7. (SBU) According to local lawyers, the above-mentioned laws can be enforced in the following way. An IPR owner, whose property rights were violated, should commence a legal action to stop the IPR violator's activities and to obtain compensation for losses related to the violation. If the IPR violator fails to comply with the court decision, the IPR owner can request law enforcement officials to enforce the court's decision. According to this procedure, it is the IPR owner's responsibility to initiate action to protect its rights. No Turkmen Government agency will take action against an IPR violator without a legal case having been initiated by the IPR owner.

ASHGABAT 00000137 002.2 OF 002

¶8. (SBU) This feature of Turkmen IPR legislation explains why IPR enforcement actions in Turkmenistan have occurred only in cases where there has been an interested party. It also explains why IPR protection is weakest in the consumer goods area. Because Turkmenistan's market for name-brand foreign goods is small, foreign producers have not pursued such cases in the country. Local IPR owners generally do not care about protecting their IPR because of a general perception that IPR, especially copyrights, are not the exclusive property of their owner. Moreover, some composers and musicians consider pirated disks with their recordings as a means of promoting their careers.

¶9. (SBU) COMMENT: A substantial improvement of the IPR situation in Turkmenistan, especially in its consumer market, will most likely be tied to increased consumer purchasing power and greater demand for genuine name-brand foreign products. If the country becomes a more important market for foreign producers, more and more IPR owners will be interested in taking the necessary steps to enforce their IPR in Turkmenistan. By law, private sector initiative is the key impetus for authorities to act against IPR violations in the country. END COMMENT.

CURRAN